

Statement of

The Honorable Patrick Leahy

United States Senator
Vermont
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Statement Of Senator Patrick Leahy,
Chairman, Senate Judiciary Committee,
On "Effective Strategies For Preventing Health Care Fraud"
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Today, the Committee refocuses on the problem of health care fraud. We are now engaged in a great national debate about health care reform. Whether you support the public option as I do, or oppose the legislative effort as so many Republicans have lined up to do in order to deal the President a political blow, I would hope that one thing on which we all can agree is that health care fraud is an enormous problem, and something that cannot be tolerated. Whether it is Federal dollars or private dollars, fraud is draining billions and billions away from providing effective health care. We must work together to ensure that we have tough and effective measures in place to prevent health care fraud and provide accountability.

I am pleased that we have with us today Deputy Secretary Bill Corr from the Department of Health and Human Services, and Assistant Attorney General Tony West from the Department of Justice. Both are distinguished public servants, and both are heavily engaged in the Government's efforts to combat health care fraud. Health care fraud is wrong. It is insidious. It not only pushes up our health care costs and wastes taxpayer money, but also puts lives in danger.

The Health and Human Services Department and the Justice Department have been working hard and more closely together than ever before to address this problem. I look forward to hearing today about those efforts and the progress they are making.

For more than three decades, I have fought in Congress to combat fraud and protect taxpayers' dollars. This spring, I introduced with Senator Grassley and Senator Kaufman the Fraud Enforcement and Recovery Act, the most significant anti-fraud legislation in more than a decade. When that legislation was enacted, it provided law enforcement with new tools to detect and prosecute financial and mortgage fraud. Now, as health care reform moves through the Senate, I want to make sure we do all we can to tackle the fraud that could undermine efforts to reduce the skyrocketing cost of health care.

The scale of health care fraud in America today is staggering. According to conservative estimates, about three percent of the funds spent on health care are lost to fraud -- more than \$60 billion dollars a year. In the Medicare program alone, the Government Accountability Office estimates that more than \$10 billion dollars was lost to fraud just last year.

Of course, there are specific incidents that illustrate the problem even more clearly than these astronomical numbers. In April, Quest Diagnostics Inc. settled a \$300 million lawsuit filed by California businessman and biochemist, Thomas Cantor. Quest continued to sell a certain kind of medical test kit from 2000 to 2006, despite complaints of inaccurate results. These tests put the health of hundreds of thousands of dialysis patients at risk. The settlement covers claims that the bad tests led to unnecessary surgeries and overtreatment which risked causing deadly diseases.

Just last month, the Department of Justice settled a case against Pfizer for \$2.3 billion, including more than \$1 billion in recovered losses - the largest health care fraud settlement in the Department's history. Pfizer had promoted drugs for uses and at dosages that the Food and Drug Administration specifically declined to approve for safety reasons. Pfizer not only defrauded American taxpayers; it placed millions of Americans at risk for serious health problems including heart attack, stroke and pulmonary embolism.

That case was also exposed by a whistleblower, and several whistleblowers who have come forward to expose outrageous instances of fraud are here today. Bruce Boice, a former sales representative for the pharmaceutical company Cephalon, blew the whistle at great cost to his career and livelihood on a similar scheme of marketing drugs for purposes for which they were not approved. He helped the Government recover \$425 million. Chuck Bates and Craig Patrick, two former employees of the medical device company Kyphon, are also here today. They blew the whistle on a practice aimed at inflating the bills sent to Medicare for a surgical procedure, and helped the Government recover \$86 million.

To stop the drain on our health care system caused by these types of fraud, we must make anti-fraud enforcement stronger and more effective. Much has been done to improve enforcement since the late 1990s, but we can and must go further.

Much attention has been devoted to fraud in the Medicare and Medicaid programs. This fraud is significant, it undermines taxpayers, doctors and patients, and we must do everything we can to stop it. I hope today we will hear that real progress is being made in that area. But it is important to remember that health care fraud does not occur solely in the public sector. Private health insurers also see billions of dollars in fraud. That fraud is often harder for the Government to track. Private companies have less incentive to report it, but it is a grave problem that we need to address.

The Finance Committee and the HELP Committee both worked hard to develop health care reform legislation. I worked with leaders from both Committees on fraud provisions, and I have encouraged both Committees to include the strongest possible anti-fraud measures. I am gratified that their legislative proposals incorporate important provisions focused on fraud, waste, and abuse.

I am glad that pending legislation would expand the Health Care Fraud and Abuse Control program, which funds our Federal anti-fraud efforts. This program has been a great success over the years, but it needs additional investigators and prosecutors to continue to fight health care fraud effectively. Since its creation in 1996, the program has recovered and restored to the Medicare Trust Fund more than \$11 billion dollars lost to fraud. According to the Justice Department, every dollar spent on health care fraud enforcement returns four dollars to the U.S.

Treasury. Estimates by independent, non-government entities suggest that the return is even greater. Investing more money in health care fraud enforcement is good policy and good economics.

I am also glad that pending legislation includes provisions allowing for more access by law enforcement to essential information. The fight against health care fraud requires Federal investigators to have appropriate access to the data and information needed to root out fraud.

I am heartened by the significant and impressive steps the administration has already taken to step up health care fraud prevention and enforcement, and I am also pleased with the real progress represented by the anti-fraud provisions of the Finance and HELP Committee bills. I was glad to contribute to those efforts. But I believe that we must do everything we can to ensure that those responsible for rooting out health care fraud have the tools they need. That is why I have been working closely with Senators Kaufman and Specter, and others, to develop important additional anti-fraud measures. We will be introducing a bill soon that we hope will add to the already impressive anti-fraud efforts we are seeing this year.

We all agree that reducing the cost of health care for American citizens is a critical goal of health care reform. I hope we can reach a consensus that stopping health care fraud and the many billions of dollars it drains from the system each year is a vital part of that effort. I look forward to hearing about the efforts of the Justice Department and Health and Human Services to more effectively combat fraud. We in Congress can do our part to ensure that, when we pass a health care reform bill, it includes all the tools and resources needed to crack down on the scourge of health care fraud.

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